



Request For Variance

State Form 51184 (12/02)

Food Protection Program

INDIANA STATE DEPARTMENT OF HEALTH

Telephone: 317/233-7360

FAX: 317/233-7334

1. Individual Submitting Request:

Date: 10 / 30 / 2009

Name: Kris Zetterlund, Senior Manager, Total Quality Telephone: (847) 42-4356 Fax: (407) 872-3720

Mailing Address: 7 Thornhill Court

Number & Street

Email: kzetterlund@darden.com

Cary, IL 60013

P.O. Box

City

State

Zip Code

2. Person/Organization Seeking Variance:

Name: Darden Restaurants Inc.

Email:

Mailing Address: 1000 Darden Center Drive

Number & Street

Orlando, FL 32837

P.O. Box

City

State

Zip Code

3. Food Establishment(s) for Which Variance is Sought

Include the following information for each food establishment: (List here or attach additional pages if necessary)

- Physical Location (If different than mailing address): Olive Garden Restaurants, various locations in Indiana. See attached list for address information.
- Mailing Address: _____
(Number, Street, City, State, & Zip Code)
- Telephone Number: () _____ Fax Number: () _____
- Person at each retail food establishment most responsible for supervising: General Manager. Please see attached list for recent information.

4. State how the proposal varies from each rule requirement, citing relevant rule sections by number:

(Attach additional pages if necessary)

Darden Restaurants respectfully requests a variance to 410 IAC 7-24-195 Reduced oxygen Packaging Criteria. Our proposal requests that Darden Restaurants be allowed to submit HACCP Plans and SOP materials that reflect current operating practices across the USA that are aligned with the 2007 supplement to the 2005 FDA Food Code sections 3-502.12 (D). This section allows for the preparation of cook-chill foods without a variance when all aspects of section 3-502.12 (D) are met. These provisions are reproduced below:

3-502.12 Reduced Oxygen Packaging, Criteria.*

(D) Except as specified under ¶ (C) of this section, a FOOD ESTABLISHMENT may package FOOD using a cook-chill or sous vide process without obtaining a VARIANCE if:

(1) The FOOD ESTABLISHMENT implements a HACCP PLAN that contains the information as specified under ¶ 8-201.14(D);

(2) The FOOD is:

(a) Prepared and consumed on the PREMISES, or prepared and consumed off the PREMISES but within the same business entity with no distribution or sale of the bagged product to another business entity or the CONSUMER,

(b) Cooked to heat all parts of the FOOD to a temperature and for a time as specified under § 3-401.11,

(c) Protected from contamination after cooking as specified under Part 3-4,

(d) Placed in a package or bag with an oxygen barrier and sealed before cooking, or placed in a PACKAGE or bag and sealed immediately after cooking, and before reaching a temperature below 57°C (135°F),

(e.) Cooled to 5°C (41°F) in the sealed PACKAGE or bag as specified under §3-501.14, and subsequently:

(i) Cooled to 1°C (34°F) within 48 hours of reaching 5°C (41°F) and held at that temperature until consumed or discarded within 30 days after the date of preparation;

(ii) Cooled to 1°C (34°F) within 48 hours of reaching 5°C (41°F), removed from refrigeration equipment that maintains a 1°C (34°F) food temperature and then held at 5°C (41°F) or less for no more than 72 hours, at which time the FOOD must be consumed or discarded;

(iii) Cooled to 3°C (38°F) or less within 24 hours of reaching 5°C (41°F) and held there for no more than 72 hours from packaging, at which time the food must be consumed or discarded; or

(iv) Held frozen with no shelf life restriction while frozen until consumed or used.

5. Explain how the potential public health hazards and/or nuisances will be alternatively addressed by the proposal. Include supporting studies, Hazard Analysis Critical Control Point (HACCP) Plan(s), standard sanitation operating procedures, and/or any other evidence: (Attach additional pages, if necessary.)

The "cook-chill" process in place in Olive Garden restaurants was designed to safely and rapidly cool foods to prevent the rapid growth of food borne illness causing bacteria. The process was never designed to extend shelf life or to allow for retail sale of the foods processed in this manner.

The cooling curves included in the proposal demonstrate how rapidly the food cools which greatly reduces the potential growth of organisms of concern, including c. botulinum. Storage temperatures of 38°F and a 3 day shelf life also limit the potential for growth and toxin formation. Since all foods cooled by "cook-chill" are thoroughly reheated prior to service, listeria concerns are eliminated.

Please review the attached HACCP plan and supporting documentation. The processes outlined in the HACCP plan are more stringent than the requirements of the current Indiana Food Code.

6. List how the proposal demonstrates the following (if applicable to the request):

A) How the proposal differs from what is common and usual in similar industry situations:

B) How the proposal is unique and not addressed in existing rules or law:

C) How the proposal does not diminish the protection of public health:

Darden has developed food safety processes and HACCP plans for performing "cook-chill", or ROP cooling of soups and sauces that are based on the 2005 FDA Model Food Code and the 2007 Supplement to the Food Code Section 3-502.12.

Current ROP cooling practices in Darden restaurants easily meet the required cooling time and temperature requirements. The 2007 supplement requires a 72 hour maximum holding time for cooled ROP foods. Olive Garden has always had this standard in place since initiating bag chill cooling in 1996.

D) How the proposal is based on new scientific or technological principle(s):

By meeting the standards set forth by the 2005 FDA Model Code supplement Darden would be in compliance with the most up to date food safety standards set by the FDA and the Conference for Food Protection.

E) How the implementation of the variance would be practical:

Olive Garden restaurants have a well established and documented training program and HACCP monitoring and documentation system in place for "bag chill" in all restaurants. The "cook-chill" procedures that we are asking a variance for have been safely in place in Indiana Olive Garden restaurants for over 14 years.

7. Explain how the person/organization seeking the variance will assure that all provisions of a granted variance will be enacted at each food establishment for which a variance has been granted:

The processes for safely cooling and holding foods are well established in Darden restaurants. The procedures for monitoring and documenting the safety of the food are also well established. Darden is committed to only serving the safest and highest quality of foods to our customers. Darden is also committed to being a partner with the regulatory community in preventing food borne illness.

All Olive Garden restaurants are owned and operated by Darden Restaurants. The HACCP Processes are evaluated daily by restaurant management teams. In addition, each restaurant receives quarterly food safety and sanitation audits by a third party auditing company which evaluates the execution of all food safety systems in each restaurant.

8. List all affected parties known by the person/organization seeking a variance, including all affected regulatory authorities: (Attach additional pages if necessary)

Indiana State Department of Health

Local Indiana County Health Departments

9. Attach copies of any related variances, waivers or opinions issued by other governmental agencies.

For Office Use Only

10. Signature of Individual Making Request:

Printed Name, Title: Kris Zetterlund, Senior Manager, Total Quality